



***Substitute House Bill No. 7256***

***Public Act No. 17-216***

***AN ACT CONCERNING REVISIONS TO CERTAIN CRIMINAL JUSTICE STATUTES AND THE REPORTING OF THE DEATH OF ANY PERSON IN STATE CUSTODY.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

Section 1. (NEW) (*Effective October 1, 2017*) Each department head, as defined in section 4-5 of the general statutes, including the Commissioner of Education, and the Chief Justice of the Supreme Court shall promptly notify the Division of Criminal Justice of any death of a person in the care, custody or control of any person or entity under the jurisdiction of such department head or the Chief Justice.

Sec. 2. Subsection (b) of section 53a-70c of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2017*):

(b) Aggravated sexual assault of a minor is a class A felony and any person found guilty under this section shall, for a first offense, be sentenced to a term of imprisonment, [of] twenty-five years of which may not be suspended or reduced by the court and, for any subsequent offense, be sentenced to a term of imprisonment of fifty years which may not be suspended or reduced by the court.

Sec. 3. Subsection (c) of section 53a-167c of the general statutes is

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repealed and the following is substituted in lieu thereof (*Effective October 1, 2017*):

(c) In any prosecution under this section involving assault of a health care employee, as defined in section 19a-490q, it shall be [a] an affirmative defense that the defendant is a person with a disability as described in subdivision (13), (15) or (20) of section 46a-51 and the defendant's conduct was a clear and direct manifestation of the disability, except that for the purposes of this subsection, "mental disability", as defined in subdivision (20) of section 46a-51, does not include any abnormality manifested only by repeated criminal or antisocial conduct.

Sec. 4. Subsections (b) to (e), inclusive, of section 54-47aa of the general statutes are repealed and the following is substituted in lieu thereof (*Effective October 1, 2017*):

(b) A law enforcement official may apply for an ex parte order from a judge of the Superior Court to compel (1) a telecommunications carrier to disclose call-identifying information pertaining to a subscriber or customer, (2) a provider of electronic communication service or remote computing service to disclose basic subscriber information pertaining to a subscriber or customer, or (3) a telecommunications carrier or a provider of electronic communication service or remote computing service to disclose the content of a subscriber's or customer's communications or geo-location data associated with a subscriber's or customer's call-identifying information. [The] In the case of an application for an order to compel disclosure under subdivision (1) or (2) of this subsection, the judge shall grant such order if the law enforcement official swears under oath to a statement of [(A)] a reasonable and articulable suspicion that a crime has been or is being committed and such call-identifying or basic subscriber information is relevant and material to an ongoing criminal investigation. [, in which case such order shall not authorize

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disclosure of the content of any communication or geo-location data, or (B)] In the case of an application for an order to compel disclosure under subdivision (3) of this subsection, if the judge makes a finding of probable cause to believe that a crime has been or is being committed and the content of such subscriber's or customer's communications or the geo-location data associated with such subscriber's or customer's call-identifying information is relevant and material to an ongoing criminal investigation, [in which case such order shall authorize] the judge shall grant such order authorizing the disclosure of such information, content or geo-location data. Any [such] order entered pursuant to this subsection shall state upon its face the case number assigned to such investigation, the date and time of issuance and the name of the judge authorizing the order. The law enforcement official shall have any ex parte order issued pursuant to this subsection signed by the authorizing judge within forty-eight hours or not later than the next business day, whichever is earlier. No order pursuant to this subsection shall authorize the disclosure of any such information, content or data for a period in excess of fourteen days.

(c) A law enforcement official may apply directly to a telecommunications carrier or provider of electronic communication service or remote computing service for production of geo-location data for a period not in excess of forty-eight hours, including real-time or historical geo-location data, or any combination of such data, pertaining to an identified subscriber or customer. The telecommunications carrier or provider of electronic telecommunication service or remote computing service may provide the requested geo-location data upon the applicant stating under oath: (1) That facts exist upon which to base a belief that the data sought is relevant and material to an ongoing criminal investigation; (2) a belief that exigent circumstances exist; and (3) the facts supporting the belief that exigent circumstances exist. Any subsequent application for information from the same telecommunication carrier or provider of

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electronic communication service or remote computing service for production of geo-location data in connection with the same investigation shall be made pursuant to subsection (b) of this section.

(d) [A] Whenever an order is issued pursuant to subsection (b) of this section, a telecommunications carrier shall disclose to the appropriate law enforcement official call-identifying information or the content of a subscriber's or customer's communications or geo-location data, and a provider of electronic communication service or remote computing service shall disclose to the appropriate law enforcement official basic subscriber information [to a law enforcement official when an order is issued pursuant to subsection (b) of this section] or the content of a subscriber's or customer's communications or geo-location data, as directed by the order.

(e) Not later than forty-eight hours after the issuance of an order pursuant to subsection (b) of this section, the law enforcement official shall mail notice of the issuance of such order to the subscriber or customer whose call-identifying information, communications data or geo-location data or basic subscriber information is the subject of such order, except that such notification may be delayed for a period of up to ninety days upon the execution of a written certification of such official to the judge who authorized the order that there is reason to believe that notification of the existence of the order may result in (1) endangering the life or physical safety of an individual, (2) flight from prosecution, (3) destruction of or tampering with evidence, (4) intimidation of potential witnesses, or (5) otherwise seriously jeopardizing the investigation. The law enforcement official shall maintain a true copy of such certification. During such ninety-day period, the law enforcement official may request the court to extend such period of delayed notification. Such period may be extended beyond ninety days only upon approval of the court. The applicant shall file a copy of the notice with the clerk of the court [that issued

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such order] for the geographical area within which any person who may be arrested in connection with or subsequent to the execution of the order would be presented, and such notice shall include the case number assigned to such investigation pursuant to subsection (b) of this section. If information is provided in response to the order, the applicant shall, not later than ten days after receiving such information, file with the clerk a return containing an inventory of the information received. Such return and inventory shall include the case number assigned to such investigation pursuant to subsection (b) of this section, and such return and inventory shall remain sealed until the copy of the notice is filed with the clerk pursuant to this section. If a judge finds there is a significant likelihood that such notification would seriously jeopardize the investigation and issues an order authorizing delayed notification under this subsection, the telecommunications carrier or provider of electronic communication service or remote computing service from whom the call-identifying information, communications data, geo-location data or basic subscriber information is sought shall not notify any person, other than legal counsel for the telecommunications carrier or provider of electronic communication service or remote computing service and the law enforcement official that requested the ex parte order, of the existence of the ex parte order. Any information provided in response to the court order shall be disclosed to the defense counsel.

Sec. 5. Subsection (f) of section 54-142a of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2017*):

(f) Upon motion properly brought, the court or a judge [thereof] of such court, if such court is not in session, [may] shall order disclosure of such records (1) to a defendant in an action for false arrest arising out of the proceedings so erased, or (2) to the prosecuting attorney and defense counsel in connection with any perjury charges which the

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prosecutor alleges may have arisen from the testimony elicited during the trial, or any false statement charges, or any proceeding held pursuant to section 53a-40b, or (3) counsel for the petitioner and the respondent in connection with any habeas corpus or other collateral civil action in which evidence pertaining to a nolle or dismissed criminal charge may become relevant. Such disclosure of such records is subject also to any records destruction program pursuant to which the records may have been destroyed. The jury charge in connection with erased offenses may be ordered by the judge for use by the judiciary, provided the names of the accused and the witnesses are omitted therefrom.

Sec. 6. Section 51-277b of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2017*):

When any judge of the Superior Court, Appellate Court or Supreme Court or employee of the Judicial Department may be affected by a law enforcement investigation, any law enforcement agency conducting such an investigation shall inform the Chief State's Attorney and the appropriate state's attorney of such investigation in a timely manner. The Chief State's Attorney shall inform the Chief Court Administrator of such investigation, provided such disclosure does not compromise any such investigation. [The Chief State's Attorney shall adopt regulations in accordance with chapter 54 to implement the provisions of this section.]

Approved July 10, 2017